

Message Text

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TAGS: PFOR, PK

SUBJECT: THE NAP DISSOLUTION CASE

SUMMARY: THE GOVERNMENT AND THE AMICUS CURIAE HAVE CONCLUDED THEIR ARGUMENTS IN THE NAP DISSOLUTION CASE AND A JUDGMENT IS EXPECTED WITHIN A MONTH. ATTORNEY GENERAL BAKHTIAR ARGUED THAT THE NAP HAS ATTEMPTED TO DESTROY THE CONCEPT OF PAKISTAN WITH THE HELP OF "FOREIGN POWERS" AND THAT THE NAP'S TOP LEADERS ARE UNRECONCILED TO THE EXISTENCE OF PAKISTAN. AFGHANISTAN AND TO A LESSER EXTENT INDIA ARE CRITICIZED FOR THEIR SUPPORT OF THE DISSOLUTION OF PAKISTAN, INDIA IN 1947 AND AFGHANISTAN FROM THEN UNTIL NOW, AND THE NAP IS ACCUSED OF WORKING WITH THEM TO ACHIEVE THAT GOAL. THE AMICUS CURIAE HAVE ARGUED THAT (1) THE GOVERNMENT'S CASE RESTS ON ACCUSATIONS AGAINST SOME WHO ARE NO LONGER IN THE NAP, (2) BY ALLOWING THE NAP TO FUNCTION AFTER THE LIFTING OF MARTIAL LAW IN 1971 THE GOVERNMENT OBVIOUSLY BELIEVED IT WAS NOT AN ANTI-STATE PARTY AND (3) EVEN IF THE GOVERNMENT TAKES EXCEPTION TO SOME STATEMENTS BY VARIOUS NAP LEADERS, IT HAS NO REASON TO BAN THE ENTIRE PARTY. END SUMMARY.

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1. THE GOVERNMENT AND THE AMICUS CURIAE HAVE CONCLUDED THEIR ARGUMENTS IN THE NAP DISSOLUTION CASE BEFORE THE SUPREME COURT AND A JUDGMENT IS EXPECTED WITHIN A MONTH. ATTORNEY GENERAL BAKHTIAR'S CLOSING REMARKS LASTED FOR SEVERAL COURT SESSIONS, AND IN HIS LENGTHY AND OFTEN TURGID PRESENTATION HE NOTED THAT THE COURT MUST FIRST DETERMINE THE MEANING OF "OPERATING IN A MANNER PREJUDICIAL TO THE INTEGRITY AND SOVEREIGNTY OF PAKISTAN" WHICH IS THE LEGAL BASIS FOR DISSOLVING A POLITICAL PARTY. IT MUST THEN DETERMINE WHETHER THE NAP OPERATED IN THAT MANNER. DRAWING ON NUMBEROUS SOURCES INCLUDING SCHOLARLY BOOKS, RADIO BROADCASTS, INTERVIEWS AND SPEECHES, THE AG SAID THAT THE GOVERNMENT HAD PROVEN (1) THAT THE NAP HAS ATTEMPTED TO DESTROY THE CONCEPT OF PAKISTAN, (2) THAT SOME OF THE NAP'S TOP LEADERS ARE UNRECONCILED TO THE EXISTENCE OF PAKISTAN, AND (3) THAT THE NAP HAS WORKED FOR THE DISINTEGRATION OF PAKISTAN WITH THE HELP OF FOREIGN POWERS/

3. BAKHTIAR CONTENDED THAT THE NAP'S ANTIPATHY TOWARD PAKISTAN IS PROVEN BY THE SUPPORT SOME OF ITS LEADERS GIVE TO THE CONCEPT OF SEVERAL NATIONALITIES WITHIN PAKISTAN. ACCORDING TO BAKHTIAR, MANY NATIONALITIES IN ONE STATE IS MERELY A EUPHEMISM FOR THE DISINTEGRATION OF THE STATE. HE ALSO ACCUSED THE NAP OF SUPPORTING A "WELL-ORGANIZED REBELLION" IN BALUCHISTAN.

4. FINALLY, MUCH OF THE CASE CENTERS ON INDIAN AND AFGHAN INVOLVEMENT IN NAP ACTIVITIES. BAKHTIAR ACCUSED AFGHANISTAN OF SUPPORTING SABOTEURS AND TERRORISTS IN PAKISTAN. HE CONTENDED THAT PAKHTOONISTAN WAS NOT CONSIDERED AN ISSUE UNTIL 1947 AFTER WHICH AFGHANISTAN USED THE ISSUE TO ENCOURAGE THE BREAKUP OF PAKISTAN. HE ALSO STATED THAT THE INDIANS SUPPORTED AUTONOMY FOR THE NWFP IN 1947 AS A MEANS OF BRINGING ABOUT THE EVENTUAL INTEGRATION OF THE REGION INTO INDIA. BAKHTIAR REASONED THAT SINCE "FOREIGN POWERS" ENCOURAGE THE DISSOLUTION OF PAKISTAN, SINCE FORMER NAP LEADERS SUCH AS AJMAL KHATTAK AND GHAFAR KHAN ALSO HAVE THE LIMITED OFFICIAL USE

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SAME GOAL, AND SINCE WALI KHAN'S STATEMENTS ABOUT PROVINCIAL AUTONOMY ARE MERELY A COVER FOR THE DISINTEGRATION OF PAKISTAN, THEREFORE THE NAP AND AFGHANISTAN ARE WORKING TOGETHER TO THREATEN PAKISTAN'S INTEGRITY.

5. THE ARGUMENTS OF THE AMICUS CURIAE, WHO WERE APPOINTED AFTER WALI KHAN WITHDREW HIS DEFENSE ATTORNEYS

IN OBJECTION TO THE PROCEEDINGS, WERE NOT REPORTED IN THE PRESS. THE EMBASSY HAS LEARNED, HOWEVER, THAT THEIR ARGUMENTS AGAINST THE GOVERNMENT'S CASE RESTED ON THREE PREMISES. FIRST, THAT KBDUL GHAFFAR KHAN AND AJMAL KHATTAK ARE NOT ASSOCIATED WITH THE NAP AND EVEN

THOUGH THEY WERE IN THE PAST THEIR PRESENT STATEMENTS AND CRITICISMS OF PAKISTAN CANNOT BE CONSIDERED NAP POSITIONS. SECOND, THE PRESENT GOVERNMENT, WHEN IT LIFTED MARTIAL LAW IN 1971 AND REINSTITUTED POLITICAL PARTIES, ALLOWED THE NAP TO FUNCTION OPENLY. THEREFORE, THE GOVERNMENT MUST HAVE BELIEVED IN 1971 THAT THE NAP WAS NOT A THREAT TO THE INTEGRITY OF PAKISTAN. ANY ACTIONS THE NAP TOOK BEFORE THAT DATE MUST NOT HAVE BEEN INIMICAL TO THE EXISTENCE OF PAKISTAN AND THE AG'S REFERENCES TO PRE-1971 NAP ACTIVITIES ARE THEREFOR SPURIOUS. FINALLY, EVEN IF SOME OF THE NAP LEADERS CAN BE CRITICIZED FOR VARIOUS OF THEIR POSITIONS, THERE IS NO JUSTIFICATION IN BANNING AN ENTIRE PARTY BECAUSE OF THE GOVERNMENT'S DISPLEASURE WITH SOME OF ITS LEADERSHIP.

6. THE TRIAL HAS CONTINUED TO RECEIVE FRONT PAGE PLAY IN BOTH THE ENGLISH AND URDU PRESS WITH NEAR VERBATIM TRANSCRIPTS OF ZAIG YQSS ARGUMENTS. THERE SHOULD BE A LULL IN THE TRIAL'S PUBLICITY FOR THE NEXT SEVERAL WEEKS WHILE THE COURT WRITES ITS DECISION. SINCE THE CHIEF JUSTICE IS RETIRING OCTOBER 31, WE BELIEVE THE COURT WILL RELEASE IT DECISION BY THEN.
BYROADE

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